**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**
**WRIT PETITION No. 335 of 2003 (M/S)**

Chet Ram & others ---Petitioners

Vs.

Deputy Director Consolidation/Collector
& others --Respondents

Present :
Mr. M.S. Bisht, Advocate, for the petitioners.
Mr. Gajendra Tripathi, Brief Holder for the State/respondents no. 1 to 4.
Mr. Tapan Singh, Advocate, holding brief of Mr. Lok Pal Singh, Advocate for respondent no.5.

**Hon'ble Alok Singh, J. (Oral)**

Undisputedly, Khoob Singh, Budh Singh and Kabool Singh were three brothers; original respondent No.5 was the son of Khoob Singh; Khoob Singh, father of Nain Singh original respondent no.5 had expired in the year 1920; Budh Singh expired in the year 1947 and his widow Darshni got remarried in the year 1948. Share of Budh Singh was mutated in the name of Nain Singh, original respondent no.5 and remained as such in the consolidation operation held in the year 1962; Kabool Singh, father of the petitioners, who had expired in the year 1983, was a young man in the year 1947 when his brother Budh Singh died and in the year 1962 during the consolidation, when share of Budh Singh was held to be inherited by Nain Singh and father of the petitioners never objected the mutation/declaration in favour of Nain Singh; therefore, after the death of Kabool Singh in the year 1983, it is not open to the petitioner to say that his father has not claimed his share in the share of Budh Singh due to illiteracy or under the influence of his nephew Nain Singh. If Kabool Singh has waived off his

share or alleged right in favour of the Nain Singh way back in the year 1962, during the consolidation operation. It is not open to the petitioner to claim back the same share after 25 years in subsequent consolidation operation. Declaration of rights made in the previous consolidation operation cannot be allowed to be reopened/re-agitated at subsequent stage.

There is another aspect of the matter. Since matter stood finalized during the consolidation operation of 1962 in favour of the Nain Singh, same cannot be permitted to be reopened in subsequent consolidation proceedings commenced after 20-25 years.

Consequently, the petition fails and is hereby dismissed.

**(Alok Singh, J.)**
27.03.2015

JM/Deepak